

REMARKS

Claims 1-7 and 9-21 are in this application and are presented for consideration. By this Amendment, Applicant has amended claims 1-7 and 9-18. Applicant has also added new claims 19-21. No additional fee is due for the four independent claims presented as Applicant has paid for a total of four independent claims.

The Office Action states that claims 3, 6, 7 and 15-17 do not read on the elected species of Figure 24. Applicant respectfully disagrees as at least claim 15 is readable on Figure 24. Claim 15 provides that one of the two front walls 603 is formed as a contour of a lid 618 defined by a pre-cut line 616 and by a folding line 620. Further, the description of Figure 24 on page 10, lines 26-32 of the specification states that the set of breaking tools may be of the form of any of the breaking tools that were previously described in the specification, which includes the set of breaking tools as shown in Figures 11, 14, 16 and 19. Accordingly, Applicant respectfully requests that the Examiner reconsider the restriction requirement. Further, Applicant respectfully requests that the Examiner reinstate claim 7 as Applicant has amended claim 7 to be a generic claim. It is Applicant's position that claim 7 reads on Figure 24.

Claims 1, 9 and 13 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 11/002,758.

Applicant will consider filing a terminal disclaimer as it is premature since no patent has issued. However, it should be noted that claims 1 and 6 of copending Application No.

11/002,758 relate to a dinked card defining a box wherein a plurality of detachable strips are detachable from a position within the box. In contrast, the claims of the current application are directed towards a strip of detachable strip-like tools that are detached one by one for breaking off the neck of a glass vial. The claims of the current application provide particular features as to the tool used to break the vials.

Claims 1, 9, 13 and 14 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has amended claims 1, 9, 13 and 14 to place them in better form. Specifically, Applicant has deleted the terms "strip-like", "and the like", "in particular" and "it" from the claims. It is Applicant's position that the claims as now presented are clear and satisfy the requirements of the statute.

Claim 1 has been rejected under 35 U.S.C. 102(b) as being anticipated by Banks (US 1,682,106).

The present invention relates to a tool that is used for breaking a neck of a glass vial. The tool comprises a strip of cardboard that has a hole for receiving the neck of the glass vial. A weakened area defines a transverse fold that coincides with the hole. The strip of cardboard is folded along the transverse fold such that two leaves are formed. One leaf is opposite another leaf when the strip of cardboard is in the folded position. Each leaf defines a finger engaging portion and each leaf is located alongside the neck of the glass vial when the glass vial is inserted into the hole of the cardboard strip. This allows the user to grasp the leaves while

holding the other end of the glass vial so that the user can generate a force with his or her fingers to snap off the neck of the vial. This advantageously protects the user from cutting his or her fingers since the leaves protect the user's fingers. This allows the user to open the vial safely without fear of injury.

Banks discloses a card B for attaching to a hanger holding a garment. The card B is used for advertising purposes and is constructed from a blank of cardboard, cloth or sheet metal. The card includes a rectangular body 10 that is folded transversely thereof along a line 11 adjacent to one end of the body. This defines a front body portion 12 and a rear attaching portion 13. The blank is provided with an enlarged opening 14 at the transverse line 11 to permit the card to be associated with the hanger. The portion 12 of the card receives the advertising matter 15 which can be on one or both sides. In applying the card to the hanger the hook 5 is placed through the opening 14 and the card is brought down over the arms 6 of the hanger. The portion 13 of the card is now folded against the portion 12 and is secured thereto by staples 16.

Banks fails to teach and fails to suggest the combination of a strip of cardboard having a defined hole for receiving a neck of a glass vial. Banks merely discloses a card having an opening for receiving a hook of a hanger. However, Banks does not direct the person of ordinary skill in the art towards a strip of cardboard having leaves that define finger engaging portions for receiving a force to break a neck of a glass vial. In contrast to the present invention, Banks discloses a card having a front body portion 12 and a rear attaching portion 13 that are connected to each other via staples 16 when the card is attached to the hanger.

Banks is completely void of any teaching of a cardboard sheet that is folded along a transverse fold such that one leaf is opposite another leaf wherein the leaves are arranged along side the neck of the glass vial. Compared with Banks, the present invention provides a cardboard sheet that is folded along a transverse fold to form two leaves. The leaves of the present invention are arranged adjacent to the neck of a glass vial when the glass vial is inserted into the hole of the cardboard sheet. This advantageously allows a user to grasp the leaves and exert a force onto the leaves so that the glass vial can be safely broken without the user injuring his or her fingers. Banks fails to disclose such a safety advantage since Banks only discloses a garment tag for attaching to a clothes hanger and does not disclose a strip of cardboard that is folded to receive the neck of a glass vial as claimed. As such the prior art as a whole takes a different approach and fails to disclose each feature of the claimed combination. Accordingly, Applicant respectfully requests that the Examiner favorably consider claim 1 as now amended and all claims that depend thereon.

Claims 13 and 14 have been rejected under 35 U.S.C. 102(b) as being anticipated by FR 2550170 (hereinafter FR '170).

Claims 13 and 14 are directed to a box formed of an integral piece of cardboard having an appendage that forms a strip of tools that can be detached one by one for removing a neck of a glass vial. Each tool has a hole for receiving the neck of the glass vial as well as finger receiving sections. When one of the tools of is detached for use, the tool is folded along a transverse fold that extends along the width of the tool. The neck of the glass vial is received by the hole of the tool such that the neck of the glass vial is perpendicular to the transverse fold.

This advantageously allows a user to safely break the glass vial by pressing on the finger receiving sections so that the user does not cut or injure his or her fingers while breaking the vial.

FR '170 discloses a package for files 300 with divisible ends 310 comprising a box 100. The box 100 has an open face 101 in which is placed a rack 200. The package comprises several detachable parts 420 which can be detached in order to be used as gripping elements for the ends 310 of the vials to be broken. The detachable parts comprise two regions that can be brought together, connected by a folding line 410 in between which the end 301 of the vial to be broken can be grasped.

FR '170 fails to teach or suggest the combination of a box having an appendage of a strip of tools that can be detached one by one, wherein each tool has a hole for receiving a neck of a glass vial. FR '170 merely discloses a detachable part 420 that is folded to break an end 310 of the vial 300. However, FR '170 is void of any suggestion of a tool having a hole for receiving a neck of a glass vial. In contrast to FR '170, one of the tools is detached from a strip of tools. The tool of the present invention is folded along a transverse fold line such that the neck of the glass vial is perpendicular to the transverse fold line when the hole receives the neck of the glass vial. The fact that the neck of the glass vial is inserted into a hole of the tool is significant in the present invention because it insures that the vial does not move when the user grasps the tool to break the end of the vial. This advantageously prevents the user from injuring his or her fingers when breaking the vial. Compared with the present invention, FR '170 only discloses a detachable part 420 that is merely folded along a folding line 410 so that

the insertion end 310 of the vial 300 engages the detachable part 420 at a location parallel to the detachable part 420. The end 310 of the vial 300 of FR '170 is not perpendicular to a transverse fold line as claimed. This disadvantageously does not protect the user's fingers since the insertion end 310 of the vial 300 in FR '170 is not secured by any hole within the detachable part 420. As such, the prior art as a whole takes a different approach and fails to suggest the features or advantages of the present invention. Accordingly, Applicant respectfully requests that the Examiner favorably consider claim 13 as now presented and all claims that depend thereon.

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Banks. As previously discussed above, Banks fails to disclose each feature of the claimed combination. Banks also fails to teach and suggest the combination of an integral strip of detachable tools which can be detached one by one for detaching a neck of a glass vial as recited in claim 9. Banks merely directs the person of ordinary skill in the art towards a garment card that can be attached to a hanger. Banks provides absolutely no suggestion for providing a strip of tools that can be detached for breaking a vial as claimed. As such, all claims define over the prior art as a whole.

Applicant has added new claims 19-21, which read on Figure 24. New independent claim 19 provides for features similar to claim 13, but highlights the components of the box structure. It is Applicant's position that claim 19 is generic. New dependent claims 20 and 21 are based on new independent claim 19 and further clarify the features of the invention. Applicant respectfully requests that the Examiner favorably consider new claims 19-21.

Favorable action on the merits is requested.

Respectfully submitted
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